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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,454	07/30/2004	Sunao Tabata	016907-1653	1785
22428	7590	07/22/2008	EXAMINER	
FOLEY AND LARDNER LLP			RASHID, DAVID	
SUITE 500				
3000 K STREET NW			ART UNIT	
WASHINGTON, DC 20007			PAPER NUMBER	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Response to Amendment

[1] The reply filed on April 29, 2008 is not fully responsive to the prior Office Action because of the following matters:

Applicant's reply to the restriction requirement appears to be a *bona fide* attempt to elect "(i) . . . invention I and species I (the identification and selection of species I within claims 1, 18, 22-26, and 28-30 and its corresponding dependents)" (Requirement for Restriction/Election at 6, Apr. 1, 2008) and is not fully responsive. *See* Response to Election/Restriction Filed, Apr. 29, 2008 (citing that "[a]pplicants hereby elect the claims of Group I, Species I, Figure 1 on which Claims 1, 18, 22-26 and 28-30 are readable thereon. . .").

The Applicant has elected invention I, but did not properly attempt to elect species I within invention I. An election of claims 1, 18, 22-26, and 28-30 by the Applicant is solely an election of invention I without identifying species I. "**Species I**, drawn to an image processing apparatus as defined in FIG. 1, identified as a separate embodiment by the specification at ¶¶0028,0053." (Requirement for Restriction/Election at 2.)

Claim 18 uses a "plane determination section" that appears consistent with FIG. 13. Claims 22-23 and 26-32 are consistent with FIG. 16. Claims 24-25 are consistent with FIG. 1. Thus examiner suggests that if electing "invention I and species I" is being elected, claims 1-7 and 24-25 read on the election and are proper.

See 37 CFR 1.111. Since the above-mentioned reply appears to be *bona fide*, applicant is given **ONE (1) MONTH or THIRTY (30) DAYS** from the mailing date of this notice, whichever is longer, within which to supply the omission or correction in order to avoid abandonment. EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136(a).

[2] The reply filed on April 29, 2008 is not fully complaint to the prior Office Action because of the following matters:

For any amendment being filed in response to a restriction or election of species requirement and any subsequent amendment, any claims which are non-elected must have the status identifier (withdrawn). Any non-elected claims which are being amended must have either the status identifier (withdrawn) or (withdrawn – currently amended) and the text of the non-elected claims must be presented with markings to indicate the changes. Any non-elected claims that are being canceled must have the status identifier (canceled).

MPEP § 714(II)(C) (*emphasis added*).

Conclusion

[3] Any inquiry concerning this communication or earlier communications from the examiner should be directed to David P. Rashid whose telephone number is (571) 270-1578. The examiner can normally be reached Monday - Friday 8:30 - 17:00 ET.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vikkram Bali can be reached on (571) 272-7415. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

Art Unit: 2624

system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/David P. Rashid/
Examiner, Art Unit 2624

David P Rashid
Examiner
Art Unit 2624

/Vikkram Bali/

Supervisory Patent Examiner, Art Unit 2624